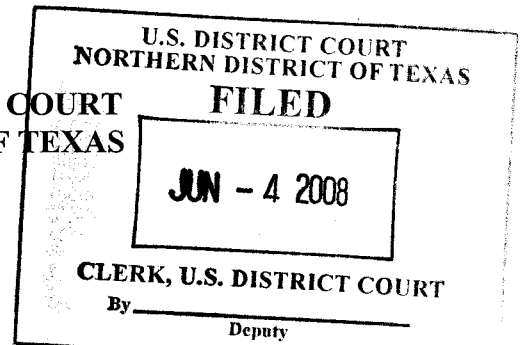


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



RECARDO HERNENDEZ,
Petitioner,

v.

NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,
Respondent.

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Civil Action No. 4:07-CV-295-Y

FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND NOTICE AND ORDER

This cause of action was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. §636(b), as implemented by an order of the United States District Court for the Northern District of Texas. The findings, conclusions, and recommendation of the United States Magistrate Judge are as follows:

I. FINDINGS AND CONCLUSIONS

A. *Nature of the Case*

This is a petition for writ of habeas corpus by a state prisoner pursuant to 28 U.S.C. § 2254.

B. *Parties*

Petitioner Recardo Hernandez, TDCJ #1219269, was a state prisoner confined in the Texas Department of Criminal Justice, Correctional Institutions Division at the time of the filing of this petition. Hernandez is no longer confined and currently resides at 108 Avenue X, Levelland, Texas 79336, according to the Texas Board of Pardons and Paroles Division.

Respondent Nathaniel Quarterman is the Director of the Texas Department of Criminal Justice, Correctional Institutions Division.

C. Procedural History

Hernandez was serving a five-year sentence for his 2004 DWI conviction in the 286th District Court of Hockley County, Texas. (State Habeas R.)¹ Hernandez filed the instant petition on May 15, 2007, in which he challenges TDCJ's denial of his release to parole and/or mandatory supervision. (Petition at 7-8.) On January 2, 2008, Hernandez was released to mandatory supervision. He has not notified this court of his change of address.

D. Discussion

Hernandez's claim that he is entitled to release on parole and/or mandatory supervision is now moot in that he has in fact been released on mandatory supervision. Because this court can no longer provide him with the relief he seeks, dismissal of this petition is appropriate as moot. *See Bailey v. Southerland*, 821 F.2d 277, 278-79 (5th Cir. 1987); *McRae v. Hogan*, 576 F.2d 615, 616-17 (5th Cir. 1978).

II. RECOMMENDATION

It is recommended Hernandez's petition for writ of habeas corpus be denied as moot.

**III. NOTICE OF RIGHT TO OBJECT TO PROPOSED
FINDINGS, CONCLUSIONS AND RECOMMENDATION
AND CONSEQUENCES OF FAILURE TO OBJECT**

Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions, and recommendation within ten (10) days after the party has been served with a copy of this document. The court is extending the deadline within which to file specific written

¹The record is not paginated.

objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation until June 25, 2008. The United States District Judge need only make a *de novo* determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. *See* 28 U.S.C. § 636(B)(1). Failure to file by the date stated above a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual finding or legal conclusion accepted by the United States District Judge. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc op. on reh'g); *Carter v. Collins*, 918 F.2d 1198, 1203 (5th Cir. 1990).

IV. ORDER

Under 28 U.S.C. § 636, it is ORDERED that each party is granted until June 25, 2008, to serve and file written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation. It is further ORDERED that if objections are filed and the opposing party chooses to file a response, a response shall be filed within seven (7) days of the filing date of the objections.

It is further ORDERED that the above-styled and numbered action, previously referred to the United States Magistrate Judge for findings, conclusions, and recommendation, be and hereby is returned to the docket of the United States District Judge.

SIGNED June 4, 2008.



CHARLES BLEIL

UNITED STATES MAGISTRATE JUDGE